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THE LAW OFFICE OF JUSTIN A. ZELLER, P.C.
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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|---|---|
| -----X | |
| EMILIANO SALAS, on behalf of himself | : |
| and all other persons similarly situated, | : |
| | : |
| Plaintiffs, | : |
| | : |
| -against- | : |
| | : |
| 99 CENTS FOR YOU, INC., a New York | : |
| corporation, | : |
| | : |
| Defendant. | : |
| -----X | |

07-CV-3430
(BSJ) (AJP)

NOTICE OF MOTION FOR APPROVAL OF COLLECTIVE ACTION NOTICE

PLEASE TAKE NOTICE that upon the accompanying (a) memorandum of law, (b) the declaration of Plaintiff's counsel, Justin A. Zeller, Esq., and the exhibits attached thereto, (c) the declaration of Plaintiff Emiliano Salas, and the exhibits attached thereto, and (d) all pleadings filed herein, a motion for the Court's approval of Plaintiff's Collective Action Notice will be made by Plaintiff on August 24, 2007 before the Honorable Andrew J. Peck at the United States Courthouse, 500 Pearl Street, New York, New York, 10007-1312. The motion will specifically seek the entry of an Order (1) allowing the case to proceed as a collective action, (2) directing Defendant to disclose the names and last known addresses of current and former employees who are potential plaintiffs and putative members of the collective action class, (3) authorizing the posting

at Defendant's place of business and service by mail upon potential plaintiffs of the proposed collective action notice attached as Exhibit A to the declaration of Justin A. Zeller, Esq. and entitled NOTICE OF LAWSUIT AND OPPORTUNITY TO JOIN, and the proposed Consent to Become Party Plaintiff attached thereto as Exhibit B. A proposed order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that that any papers in opposition to this motion are due no later than (10) days after service hereof. The parties and their attorneys shall only appear to argue the motion if so directed by the Court by order or by individual rule or upon application. Plaintiffs respectfully request such argument.

Dated: New York, New York
August 24, 2007

THE LAW OFFICE OF JUSTIN A. ZELLER, P.C.

/s/ Justin A. Zeller

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New York, NY 10011
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UNITED STATES DISTRICT COURT
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07-CV-3430
(BSJ) (AJP)

**[PROPOSED] ORDER ON PLAINTIFF'S MOTION
TO APPROVE COLLECTIVE ACTION NOTICE**

IT IS HEREBY ORDERED that:

1. The collective action notice entitled "NOTICE OF LAWSUIT AND OPPORTUNITY TO JOIN" and attached hereto as Exhibit A is hereby approved for mailing to potential plaintiffs;
2. The collective class of potential plaintiffs in this matter shall consist of all current and former employees of Defendants who worked in any of the following capacities: stock person, janitorial/maintenance worker, and delivery worker and who worked for Defendant in excess of forty (40) hours per week without being paid overtime compensation equal to one and one-half times the regular rate at which they were employed at any time during the three year period immediately preceding the date of this Order; and
3. Defendant shall provide to Plaintiff the names and last-known addresses of all potential plaintiffs no later than five (5) business days after the date of this Order. This information shall be supplied in paper form, and also digitally in one of the following formats: Microsoft Excel; Microsoft Word; or Corel WordPerfect; and
4. Plaintiff shall mail the notice of collective action to all potential plaintiffs no later than fifteen (15) days following the defendant's disclosure of their names and last-known addresses; and
5. Defendant shall post the attached Notice at its place of business located at 10 East 125th Street, New York, NY 10035 no later than five (5) business days after the date of this Order. Said Notice shall remain posted, in a highly and generally visible area at said location for a period of sixty (60) days;

6. If any notice to any potential plaintiff is returned as undeliverable, Plaintiff's counsel is permitted to mail the notice to such potential plaintiff again at any other address he may determine is appropriate; and

7. All potential plaintiffs must opt-in no later than sixty-five (65) days following the date of mailing of the collective action notice, by returning the executed form entitled "Consent to Become Party Plaintiff" to Plaintiffs' counsel no later than sixty (60) days from the date of mailing. Plaintiffs' counsel shall thereupon promptly file such executed consents with the Court and serve copies thereof on other counsel of record.

DATED this 24th day of August, 2007

U.S.D.J.